

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

LISA CARRIGAN, et al

Plaintiffs,

v.

**FIRST AMERICAN TITLE
INSURANCE COMPANY, et al**

Defendants.

Civ. No. 6:13-cv-00902-TC

ORDER of DISMISSAL

MCSHANE, Judge:

Defendant J. Lauren Schickling's Motion to Dismiss for Lack of Subject Matter Jurisdiction [#238] is **GRANTED** and this case is **DISMISSED** without prejudice.

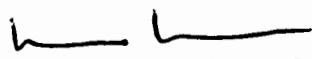
Defendant J. Lauren Schickling's Motion to Dismiss for Lack of Subject Matter Jurisdiction [#238] was filed on 11/15/2016, and oral arguments were heard on 11/16/2016. [#242]. The Motion to Dismiss was also supported by Plaintiff Lisa Carrigan [#240].

For the reasons stated on the record [#242], the Court finds that it has no jurisdiction in this matter and dismissal is appropriate under FRCP 12(b) and ORS 28.110. The action lacks complete diversity because the Plaintiff and two Defendants were Oregon residents at the time of filing and continue to be so. Because the Court cannot determine on this record whether the interests of the Oregon parties are shared in common, the Court declines to realign the parties under the Ninth Circuit's "primary purpose test." See *Prudential Real Estate Affiliates v. PPR Realty*, 204 F.3d 867, 873 (9th Cir. 2000), *Dolch v. United California Bank*, 702 F.2d 178, 181 (9th Cir. 1983), *Cont'l Airlines, Inc. v. Goodyear Tire & Rubber Co.*, 819 F.2d 1519, 1522-23 (9th Cir. 1987), *et al.*

It is therefore Ordered that Defendant J. Lauren Schickling's Motion to Dismiss for Lack of Subject Matter Jurisdiction [#238] is **GRANTED** and this case is **DISMISSED** without prejudice. Defendant J. Lauren Schickling's previous Motion to Dismiss [#236] is **DENIED** as moot.

IT IS SO ORDERED.

DATED this 17th day of November, 2016.



Michael J. McShane
United States District Judge